IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 27TH FEBRUARY 2007 / 8TH PHALGUNA 1928

WP(C).No. 26139 of 2005(J)

PETITIONERS:
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1. **FATHIMA,**
   MANHIKKAD HOUSE, MUNDAKKULAM DESOM,
   MUTHUPARAMBA POST, MALAPPURAM DISTRICT.

2. **P.MAMMUNNI, MANHIKKAD HOUSE,**
   MUNDAKKULAM DESOM, MUTHUPARAMBA POST,
   MALAPPURAM DISTRICT.

BY ADV. SRI.MANJERI SUNDERRAJ,
SRI.B.PREMNATH.

RESPONDENTS:
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1. **PAMBODAN KADEEJA,**
   (M/S.NAJMA TRADERS), MANJINIKADU HOUSE,
   MUTHUPARAMBA HOUSE, KONDOTTY, MALAPPURAM DISTRICT.

*** 2. CHEEKODE GRAMA PANCHAYATH,**
MUNDAKKAL POST, MALAPPURAM DISTRICT,
REP. BY ITS SECRETARY.

***MUTHUVALOOR GRAMA PANCHAYATH,**
MUNDAKKAL POST, MALAPPURAM DISTRICT,
REP. BY ITS SECRETARY.

***SUBSTITUTED AS PER ORDER DTD. 30/01/2006 IN I.A. 910/05.**

W.P.(C). NO.26139/2005:

3. TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS, THIRUVANANTHAPURAM.

BY ADV. SRI.DEEPU THANKAN FOR R1,
SRI.S.SHANAVAS KHAN FOR R2.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/02/2007,ALONG WITH W.P.(C). NOS. 16619/2006 & 17743/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.26139/2005:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE REPORT OF ANALYSIS OF WATER OF SMT. SAKEENA, W/O. MAMMED A NEIGHBOURING RESIDENT OF THE PETITIONERS.

EXT.P.2: COPY OF THE ADVOCATE COMMISSIONER SASIKUMAR'S REPORT AND PLAN DTD. 30/03/04 IN O.S. 93/2004.

EXT.P.3: COPY OF THE REPORT DTD. 19/03/2005 OF THE DISTRICT MEDICAL OFFICER (HEALTH) MANJERI.

EXT.P.4; COPY OF THE COMMUNICATION DTD. 16/08/2004 ADDRESSED TO T.P. MOIDEEN BY THE POLLUTION CONTROL BOARD WITH COPY TO K.P. SAKEENA.

EXT.P.5: COPY OF THE REPLY DTD. 27/04/2005 OBTAINED FROM REVENUE DIVISIONAL OFFICER, PERINTHALMANNA.

EXT.P.6: COPY OF THE REPORT DTD. 04/04/2005 BY THE ASSOCIATION FOR HUMAN RIGHTS.

EXT.P.7: COPY OF THE HIGH COURT JUDGMENT DTD. 14/09/2004 IN W.P.(C). 18217/2004.

EXT.P.8: COPY OF THE LETTER DTD. 31/01/05 TO M/S. NAJMA TRADERS BY THE KERALA STATE POLLUTION CONTROL BOARD.

EXT.P.9: COPY OF THE ORDER NO. A5-145/2004 DTD. 28/02/2005 PASSED BY THE R.2. DISMISSING THE 1ST RESPONDENT'S APPLICATION FOR RENEWAL OF LICENSE ON THE BASIS OF POLLUTION CONTROL BOARD'S REPORT AND IN PUBLIC INTEREST.

EXT.P.10: COPY OF THE APPEAL MEMORANDUM OF THE R.1. BEFORE THE R.3.

EXT.P.11: COPY OF THE STAY ORDER DTD. 22/03/05 PASSED BY THE R.3.

EXT.P.12: COPY OF THE PETITION FOR IMPLEADMENT FILED BY THE PETITIONER.

EXT.P.13: COPY OF THE ORDER PASSED BY THE R.3.

EXT.P.14: COPY OF THE KERALA GAZETTE VOL. 50 NO. 1620 CONTAINING KERALA GOVERNMENT NOTIFICATION NO. 215/05 LOCAL SELF GOVERNMENT MINISTRY, TRIVANDRUM DTD. 23/07/2005.

W.P.(C). NO.26139/2005:

RESPONDENT'S EXHIBITS:

EXT.R1.A: COPY OF THE JUDGMENT DTD. 16/03/2005.

EXT.R1.B: COPY OF THE LETTER ISSUED BY THE R.2. DTD. 27/07/2005.

EXT.R1.C: COPY OF THE REQUEST DTD. 23/08/2005.

EXT.R1.D: COPY OF THE REQUEST DTD. 12/09/2005.

EXT.R1.E: COPY OF THE LETTER DTD. 13/10/2005.

//TRUE COPY//

prv.

PIUS C. KURIAKOSE, J.

W.P.(C) Nos. 26139 OF 2005, 16619 and 17743 of 2006

Dated this the 27th day of February, 2007

JUDGMENT

Sri.Deepu Thankan, counsel for the petitioner in WP(C) No.17743 of 2006 submits that all the safe-guards insisted upon by the Pollution Control Board and by other authorities have now been taken by his client and that the Pollution Control Board has already issued consent also for operating the unit. According to him, there is no reason as to why the Panchayat should not favourbaly consider the application submitted by the petitioner. On behalf of Sri.Manjeri Sunder Raj who appears for the petitioners in WP(C) No.26139 of 2005 and WP(C) No.16619 of 2006, an adjournment is sought for. Since I am not deciding the issue and I am relegating the issue to be decided by the Panchayat, I am not inclined to adjourn the cases.

2. Sri.Shanavas Khan, Standing Counsel for the 1st respondent in WP(C) No.17743 of 2006 submits that the petitioner will have to comply with all the standards set by the Pollution Control Board and the other authorities in which case only the Panchayat will be inclined to consider the licence application favourably.

Having regard to the rival submissions made before me, I dispose of all the three Writ Petitions directing the Panchayat to take a decision

on the licence application submitted by the petitioner in WP(C) No.17743 of 2006 after being satisfied that the petitioner is having consent from the Pollution Control Board after being satisfied that the conditions of consent are faithfully complied with by the petitioner and that the petitioner is having other statutory requirements necessary in the matter of conduct of the business in respect of which licence is sought for. Final decision will be taken by the Panchayat only after hearing the petitioner in WP(C) No. 17743 of 2006 and also the petitioners in WP(C) No. 26139 of 2005 and WP(C) No.16619 of 2006. The interim order already passed in WP(C) No.17743 of 2006 will continue till such time as a final decision is taken on the licence application. But such continuance will be subject to the final decision to be taken by the Panchayat. Once decision is taken, the same should be communicated by the Panchayat to the petitioners in all the cases. The Panchayat will take a decision as directed above at the earliest and at any rate within two months of receiving copy of this judgment. It is needless to mention that directions issued by the Tribunal for Local Self Government Institutions and all other relevant materials will be kept in mind by the Panchayat while taking decision.

PIUS C. KURIAKOSE, JUDGE

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